

Michael W. Sobol (State Bar No. 194857)
msobol@lchb.com
 Roger N. Heller (State Bar No. 215348)
rheller@lchb.com
 Allison Elgart (State Bar No. 241901)
aelgart@lchb.com
 LIEFF, CABRASER, HEIMANN & BERNSTEIN, LLP
 275 Battery Street, 29th Floor
 San Francisco, CA 94111-3339
 Telephone: (415) 956-1000
 Facsimile: (415) 956-1008

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Attorneys for Weisblatt Plaintiffs

[Additional Counsel listed on signature page]

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

ADAM WEISBLATT, JOE HANNA, and
 DAVID TURK, individually and on behalf of
 all others similarly situated,

Plaintiffs,

v.

APPLE INC., AT&T MOBILITY LLC,
 and Does 1-10,

Defendants.

Case No. 5:10-cv-02553-RMW

**STIPULATION AND []
 ORDER FOR CONSOLIDATION
 PURSUANT TO FED. R. CIV. P. 42**

STUART LOGAN, on behalf of himself and
 all others similarly situated,

Plaintiff,

v.

APPLE INC. and AT&T MOBILITY LLC,

Defendants,

COLETTE OSETEK, individually and on
 behalf of all others similarly situated,

Plaintiff,

v.

APPLE INC.,

Defendant,

Case No. 5:10-cv-02588-RMW

Case No. 5:10-cv-04253-RMW

		CASE NOS. 5:10-cv-02553-RMW, 5:10-cv-2588-RMW, 5:10-cv-4523-RMW
STIPULATION AND [] ORDER FOR CONSOLIDATION		

1 WHEREAS, *Weisblatt et. al v. Apple Inc. et al.* (N.D. Cal. Case No. 5:10-cv-02553-
 2 RMW) (the “*Weisblatt*” action”) was filed on June 9, 2010, naming as defendants Apple Inc.
 3 (“Apple”), AT&T Inc., and AT&T Mobility LLC (“AT&T Mobility”);

4 WHEREAS, plaintiffs in the *Weisblatt* action filed their First Amended Complaint on
 5 June 23, 2010;

6 WHEREAS, by stipulated Order dated September 22, 2010, defendant AT&T Inc. was
 7 dismissed from the *Weisblatt* action without prejudice;

8 WHEREAS, *Logan v. Apple Inc. et. al.* (N. D. Cal. Case No. 5:10-cv-02588-RMW) (the
 9 “*Logan* action”) was filed on June 11, 2010, naming as defendants Apple and AT&T Mobility;

10 WHEREAS, by Order dated September 14, 2010, this Court related the *Logan* action to
 11 the *Weisblatt* action;

12 WHEREAS, pursuant to the Stipulation And Order Regarding Motion To Compel
 13 Arbitration, Discovery And Deferral Of Responsive Pleading Of AT&T Mobility LLC, dated
 14 November 4, 2010 (*Logan* Dkt. No. 41), AT&T Mobility’s time to respond to the *Logan*
 15 complaint was extended to December 6, 2010;

16 WHEREAS, pursuant to the Order Granting Motion of AT&T Mobility LLC For An
 17 Extension Of Time To Respond To The First Amended Complaint, dated November 15, 2010
 18 (*Weisblatt* Dkt. No. 61), AT&T Mobility’s time to respond to the *Weisblatt* First Amended
 19 Complaint was extended to December 6, 2010;

20 WHEREAS, Case Management Conferences in the *Weisblatt* and *Logan* actions are
 21 scheduled for December 17, 2010 (*see* Order on Defendant AT&T Mobility LLC’s Motion To
 22 Compel Arbitration Or, In The Alternative, To Stay Case, dated October 18, 2010, *Weisblatt*
 23 Dkt. No. 50, and Stipulation And Order Continuing November 19, 2010 Case Management
 24 Conference To December 17, 2010, dated November 17, 2010, *Logan* Dkt. No. 46);

25 WHEREAS, *Osetek v. Apple Inc.* (N.D. Cal. Case No. 5:10-cv-04253-RMW) (the
 26 “*Osetek* action”) was filed on September 20, 2010, naming Apple as a defendant;

27 WHEREAS, by Order dated October 27, 2010, this Court related the *Osetek* action to the
 28 *Weisblatt* action;

	I	CASE NOS. 5:10-cv-02553-RMW, 5:10-cv-2588- RMW, 5:10-cv-4523-RMW
STIPULATION AND [] ORDER FOR CONSOLIDATION		

1 WHEREAS, the *Weisblatt*, *Logan*, and *Osetek* actions are all currently pending before this
2 Court;

3 WHEREAS, on November 4, 2010, defendant Apple filed a Motion to Consolidate
4 Related Actions (*Weisblatt* Dkt. No. 57; *Logan* Dkt. No. 42; *Osetek* Dkt. No. 12) (“Motion to
5 Consolidate”), asking the Court to consolidate the *Weisblatt*, *Logan*, and *Osetek* actions for all
6 purposes pursuant to Fed. R. Civ. P. 42, and the hearing on Apple’s Motion to Consolidate is
7 currently scheduled for January 7, 2011;

8 WHEREAS, on November 12, 2010, defendant AT&T Mobility filed its Notice of Joinder
9 in Apple Inc.’s Motions to Consolidate Related Actions as to the two actions in which AT&T
10 Mobility is named as a defendant, *Weisblatt* and *Logan* (*Weisblatt* Dkt. No. 59 and *Logan* Dkt.
11 No. 45); and

12 WHEREAS, the *Weisblatt*, *Logan*, and *Osetek* actions arise from the same circumstances
13 and allegations, and involve common questions of law and fact,

14 Plaintiffs in the *Weisblatt*, *Logan*, and *Osetek* actions, defendant Apple, and defendant
15 AT&T Mobility, by and through their respective counsel, hereby stipulate as follows:

- 16 1. The *Weisblatt*, *Logan*, and *Osetek* actions shall be consolidated for all purposes,
17 pursuant to Fed. R. Civ. P. 42(a). The case number for the consolidated
18 proceedings shall be 5:10-cv-02553-RMW (the case number for the first-filed
19 *Weisblatt* action).
- 20 2. Defendant Apple’s pending Motion to Consolidate is dismissed as moot, and the
21 January 7, 2011 hearing for Apple’s Motion to Consolidate is vacated.
- 22 3. Defendant AT&T Mobility shall not be required to respond further to the
23 complaints filed in the *Weisblatt* or *Logan* actions.
- 24 4. Plaintiffs shall file a consolidated master complaint (“Master Complaint”) by no
25 later than December 10, 2010.
- 26 5. Defendants Apple and AT&T Mobility shall file their responses to the Master
27 Complaint by no later than January 14, 2011. To the extent that Apple and/or
28 AT&T Mobility move to dismiss one or more of the claims alleged in the Master

Complaint: (a) Plaintiffs shall file their opposition(s) to any such motion(s) by no later than February 11, 2011; and (b) defendant(s) shall file their replies by no later March 4, 2010. Any such motions shall be heard by the Court on March 18, 2011 at 9:00 a.m.

6. The Case Management Conferences scheduled for December 17, 2010 in the *Weisblatt* and *Logan* actions are hereby taken off calendar. The Initial Case Management Conference in the consolidated action shall be held on March 18, 2011 at 10:30 a.m. or on such later date as the Court orders.
7. The Court's Order on Defendant AT&T Mobility's Motion to Compel Arbitration or, in the Alternative, to Stay Case, entered in the *Weisblatt* action on October 18, 2010 (*Weisblatt* Dkt. No. 50), shall be fully binding on the parties in the consolidated action. The parties agree that AT&T Mobility's right to seek to compel arbitration of the named plaintiff's claims in accordance with their arbitration agreements is preserved, and in particular agree that all arguments raised in AT&T Mobility's Motions to Compel Arbitration and to Dismiss Claims or, in the Alternative, to Stay Case, filed in the *Weisblatt* action (*Weisblatt* Dkt. No. 23) and *Logan* action (*Logan* Dkt. No. 32), shall be preserved as if such arguments were raised in the consolidated action.

IT IS SO STIPULATED.

1 Dated: December 6, 2010

Counsel for Weisblatt Plaintiffs:

2 LIEFF CABRASER HEIMANN & BERNSTEIN,
3 LLP

4
5 By: /s/ Michael W. Sobol
Michael W. Sobol
msobol@lchb.com
6 Roger N. Heller
rheller@lchb.com
7 Allison Elgart
aelgart@lchb.com
8 275 Battery Street, 29th Floor
San Francisco, CA 94111-3339
9 Telephone: (415) 956-1000
Facsimile: (415) 956-1008

10 Dated: December 6, 2010

Counsel for Logan Plaintiffs

11 THE WESTON FIRM

12 By: /s/ Gregory S. Weston
Gregory S. Weston
greg@westonfirm.com
13 888 Turquoise Street
14 San Diego, CA 92109
Telephone: (858) 488-1672
15 Facsimile: (480) 247-4553

16 Jack Fitzgerald
jack@westonfirm.com
17 2811 Sykes Court
Santa Clara, California 95051
18 Telephone: (408) 459-0305

19 Dated: December 6, 2010

Counsel for Osetek Plaintiffs

20 SCHUBERT JONCKHEER & KOLBE LLP

21 By: /s/ Willem F. Jonckheer
Willem F. Jonckheer
wjonckheer@schubertlawfirm.com
22 Three Embarcadero Center
23 Suite 1650
San Francisco, CA 94111
24 Telephone: (415) 788-4220
25 Facsimile: (415) 788-0161

26
27
28

1 DATED: December 6, 2010

Counsel for Apple Inc.

MORRISON & FOERSTER LLP

3 By: /s/ Penelope A. Preovolos
4 Penelope A. Preovolos
5 ppreovolos@mofo.com
6 Andrew D. Muhlbach (CA SBN 175694)
7 amuhlbach@mofo.com
8 Heather A. Moser (CA SBN 212686)
9 hmoser@mofo.com
425 Market Street
San Francisco, California 94105-2482
Telephone: 415.268.7000
Facsimile: 415.268.7522

9 DATED: December 6, 2010

Counsel for AT&T Mobility LLC

CROWELL & MORING, LLP

11 By: /s/ M. Kay Martin
12 M. Kay Martin (CSB No. 154697)
13 mmartin@crowell.com
14 275 Battery Street, 23rd Floor
San Francisco, CA 94111
Telephone: (415) 986-2800
Facsimile: (415) 986-2827

15 Kathleen Taylor Sooy
16 ksooy@crowell.com
17 1001 Pennsylvania Avenue, NW
Washington, D.C. 20004
Tel: (202) 624-2500
Facsimile: (202) 628-5116

21 PURSUANT TO STIPULATION, IT IS SO ORDERED.

22 Date: 12/15/10

23 

24 Hon. Ronald M. Whyte
United States District Judge